

Application No. 10/797,583

REMARKS

Claims 1-11 and 13-23 are pending. Claims 13-22 stands withdrawn from further consideration. By this Amendment, no claims are cancelled, no claims are amended and no new claims are added.

THE DRAWINGS

Applicant notes that while no objection to the drawings has been raised in any of the office actions in the case, no office action has indicated that the drawings are acceptable. Applicant requests that the Examiner indicate whether the drawings are acceptable in the next office action.

35 U.S.C. § 103

The office action rejected claims 1, 2, 6, 8-11 and 23 rejected under 35 U.S.C. 103(a) as being unpatentable over Martin (U.S. Patent No. 5,480,380) in view of Ladika (U.S. Patent No. 4,747,840) and Bodicky (U.S. Patent No. 4,961,731).

Claim 11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Martin in view of Ladika '840.

Claim 7 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Martin in view of Ladika and Bodicky, as applied to claims 1, 2, 6, 8-11 and 23 above, and further in view of Duffy (U.S. Patent No. 6,048,332).

Applicant respectfully traverses the rejections.

When applying 35 USC 103 the following tenets of patent law must be adhered to:

- A) The claimed invention must be considered as a whole;
- B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination;
- C) The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention; and

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D) Reasonable expectation of success is the standard with which obviousness is determined. MPEP 2141, *Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986).

The Office Action indicates that it would have been obvious to one of ordinary skill in the art to form the inner lumen with braided extrusion reinforcement tubing as taught by Bodicky in order to reinforce the device for high pressuring injections. The Office Action also indicated under "Response To Arguments," that the Examiner disagrees with the Applicant's contention that Ladika's pliable thin wall tubing and Martin's light thin wall inner lumen teach away from tubing suitable for high pressure injections. The Office Action further indicates that "merely because the tubing is thin does not mean it is unsuitable for high pressure injections."

Applicant respectfully renews the argument that both the Ladika and Martin references teach away from Applicant's invention. Further, Martin and Ladika teach away from Bodicky cited in the office action. Bodicky states, in the section identified in the Office Action, that braided catheter tubing is utilized "so as to be sufficiently strong to withstand high pressure fluid injection at pressures on the order of 1,000 pounds per square inch." Thus, the teaching of Bodicky fully supports the Applicant's contention that thin-walled, pliable tubing structures are not appropriate for use in a catheter intended for high pressure injections and further supports the Applicant's position that Martin and Ladika teach away from Applicant's claimed invention. Further, because Martin and Ladika teach away from Applicant's invention and Bodicky teaches away from Martin and Ladika, one of ordinary skill in the art would not be motivated to make the combination of Martin, Ladika and Bodicky suggested in the Office Action except for the impermissible hindsight vision based on the claimed invention.

In addition, the combination of Martin, Ladika and Bodicky still do not disclose or suggest, either individually or in combination, all of the limitations recited in claim 1. While Bodicky teaches the use of braided catheter tubing, there is nothing in Martin, Ladika or Bodicky to suggest to one of ordinary skill in the art, that braided catheter tubing should be used for the

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inner lumen of a dual lumen catheter while another material is used for the outer lumen.

Bodicky teaches only the general use of braided catheter tubing in a single lumen catheter.

There is nothing in Bodicky or the other prior art of record to suggest using braided extrusion reinforcement for the inner lumen wall of a coaxial dual lumen catheter.

The combination of a reinforced inner lumen wall and a low compliance outer lumen wall minimizes the catheter profile and facilitates the accurate clinical measurement of differential pressure across the aortic valve in the heart. Applicant respectfully requests that the Examiner withdraw the rejection.

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,



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